

OGC Has Reviewed

26 March 1962

Memorandum for the Record

Subject: Conflicts of Interest & Consultants --
Conference with General Counsel on my suggestions
for amending his draft report to DCI.

I conferred to-day with Mr. Houston, giving him copies of the attached papers. I said that the only point with which I disagreed was his statement that our conference at the Dept. of Justice amounted to the Department's agreement that we had no conflicts, based on currently available information. I feel this is much too broad. Houston agreed, but feels that our description of three specific cases and our statement that the 3 consultants [redacted]

[redacted] had been precluded from participating in the contract negotiations, followed by approving sounds from Lindenbaum of Justice amounted to something more than agreement on interpretation of the new Presidential Memorandum. Houston will revise my working on this point.

He appeared to agree with my other points. He also glanced over my Memo. for the Record of our talk at Justice, 22 March, and said he had no comments other than to add the names of [redacted] among the cases discussed. (I had sent [redacted] a copy of this Memo. on about 23 March, but Houston had not yet seen it.)

Houston will now redraft the memorandum and send me a copy of the new draft. He feels that as soon as the Director approves the recommendations it contains, the present job will be over. It will be OGC's job to examine the new statements of financial interests when they are received from the consultants.

Re GC opinion that there are no conflicts of interest: I mentioned to Houston when I ran into him on 23 March that I thought his statement went beyond the scope of our investigation of DPD's consultants, and asked his opinion of the draft section on DPD that I had sent him. His reply was that he, personally, knew a great deal about DPD. Since he is the one who will sign the report to the Director, I did not press this point further.

Houston said that he perceives no further IG interest in the matter of the survey just completed.

Mr. Houston

My principal suggestions re your draft of 23 Mar 62 are:

Insert attached new paras. 2 and 3.

Revise your paras. 2 and 3 (new paras. 4 and 5) in the form of the attached.

For greater emphasis, reverse the order of your paras. 5 and 6 (new 8 and 7, respectively).

Para. 8 (new 10) - define "focal point". I presume you feel that the various units should be the ones to make the requests to their own consultants (see below)
(OVER)

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for statements of financial interest, their other consultancies to the Government, etc.

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2. The President's Memorandum to the Heads of Executive Departments and Agencies, dated 9 February 1962, entitled "Preventing Conflicts of Interest on the Part of Advisers and Consultants to the Government", has greatly clarified the problem of applying the conflict of interest statutes (of which the chief ones date from the period 1853-64) to the intermittent consultants of the government. The principal new feature is the provision that an intermittent consultant who does not spend more than 40% of his time in consultations with the U.S. Government is to be treated as an "employee" of the Government (within the meaning of the conflict of interest statutes) only on those days on which he is actually consulting. The President's Memorandum also sharply increases the administrative steps which an agency will in the future be required to take with respect to its intermittent consultants, especially by the requirement that statements of financial interests must be secured from each consultant, disclosing the names of all entities, business or other, which he is serving as employee, officer, member, director, or consultant and the companies in which he has any financial interest. The precise amount of investments need not be revealed.

25X1

Agency components is attached, prefaced by a summary showing the number sponsored by each component. Those consultants with specialized scientific knowledge and skills (who are the class to which the Presidential Memorandum is chiefly directed) are listed in ~~almost all cases~~ ^{chiefly} under DPD, TSD, and OSI. The attached list includes approximately _____ individuals who, for the reasons stated below, are not really used as "consultants" within the definition of that term stated by the Presidential Memorandum, or within the general sense of that Memorandum, and should therefore be removed from the list of consultants and given a designation more accurately describing their relationship with the Agency.

not figures

4. We have reviewed in the light of the President's Memorandum the Agency utilization of individuals in advisory or part-time consultant capacities. We conclude, on the basis of all the information currently available, that there are no conflicts of interest, real or apparent, in our current utilization of these individuals. Upon receipt, however, of the statements of financial interests from each such consultant, in accordance with the President's Memorandum, the additional information thereby produced will have to be reviewed in each case before a final conclusion can be reached. We have also reviewed the Agency's use of advisory committees in the light of Executive Order 11007, dated 26 February 1962. The Agency is currently complying with

the requirements of this Executive Order, but it will be necessary to take administrative steps to assure compliance in the future with the Order's new requirement that advisory committees be appointed for no longer than two years, at the end of which time they can be reappointed or reconstituted.

5. Following our review, we discussed with the Office of Legal Counsel, Department of Justice, who are the Government experts in this field, our interpretation of the impact of the Presidential Memorandum on the Agency, and our proposed supplemental procedures for applying it. We found that Office to be in agreement with our conclusions. One of the most important points settled with the Department of Justice was that proprietary enterprises with legitimate corporate or other legally constituted bodies would be recognized as having independent existence, and their directors, officers, and employees would not be considered as consultants to the Agency unless they acted as such on direct and independent appointments. This is consistent with our long-held concept of proprietaries, and persons affiliated with the Agency solely through their proprietary connection are eliminated from consideration in this paper. However, as a practical matter, based on the results of security investigations and other information, a considerable degree of control on possible conflicts of interest is maintained on proprietary personnel.

*Paper prepared for our visit
to Dept of Justice, 22 March 62
(see Memo. for Recd.)*

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